Immunocept, LLC, et al v. Fulbright & Jaworski Doc. 98

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FILED
MAR 24 2006
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY ______ DEPUTY CLERK

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

IMMUNOCEPT, LLC, PATRICE ANNE LEE, AND JAMES REESE MATSON, §
§
§
Plaintiffs, §
§
vs. § **CAUSE NO. A O5 CA 334**
SS
§
FULBRIGHT & JAWORSKI, LLP, §
§
Defendant. §

AGREED MOTION FOR SPECIAL SETTING APRIL 17, 2006

Now Come Plaintiffs to the above styled and referenced lawsuit and request a special setting to begin the trial April 17, 2006 and would show the Court the following:

1. The Court set this matter for trial in April 2006 by order dated August 4, 2005.

2. On February 13, 2006 this Court established an 18 hour per side schedule or about two week limit on trying this case.

3. Subject to the Court's convenience, the Parties have agreed to seek a start date for this Trial of **April 17, 2006.** (See Exhibit A – email from David Beck). Plaintiffs urge this because i) many of the witnesses are out of state and one of the experts is even outside the Country and it is expensive and time consuming and perhaps impossible to get all of the witnesses to the Court on short order if called to do so; ii) Dr. Matson is a practicing critical care doctor and it is difficult and in some cases impossible for him to alter his schedule quickly; iii) all of the lawyers

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presenting this case are visiting Austin and lodging as well as other logistics will take some time and planning and cannot be completed quickly, and iv) it may be helpful to the Court as well as the Parties to begin the trial April 17 to give more time for the Court to hear argument, should the Court choose to do so, on a number of pretrial matters now pending.

For these reasons, the Parties to this case respectfully request that the trial of this case be scheduled to begin April 17, 2006, subject, of course, to the Court's calendar.

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served *via facsimile* below on this the 23rd day of March, 2006:

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Attorneys for Fulbright & Jaworski, LLP

Michael P. Lynn, P.C.

Exhibit A

Mike Lynn

From: David Beck [DBECK@brsfirm.com]
Sent: Thursday, March 16, 2006 12:10 PM
To: Mike Lynn
Subject: RE: Trial schedule

Mike, the week of April 17 is fine. I also am okay with week of April 10 if we can start on Tuesday (or Wednesday) of that week.
I have to be out of the city that prior week and will not return until Sunday, April 9. That is why I would like to delay the start of trial until at least Tuesday, so that I have at least one day to get to Austin and prepare for the following day. David

EXHIBIT
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